

Statement
Insurance Association of Connecticut

Labor and Public Employees Committee

February 19, 2013

SB 823, An Act Concerning Severe Mental Or Emotional
Impairment And Workers' Compensation Coverage

The Insurance Association of Connecticut (IAC) has serious concerns with SB 823, An Act Concerning Severe Mental Or Emotional Impairment And Workers' Compensation Coverage.

SB 823 would permit compensation under the Workers' Compensation Act for post-traumatic stress disorder caused by an employee witnessing the death or maiming of other persons. While we understand that the impetus for the bill comes in large part from the recent tragedy in Newtown, we remain concerned about the effect SB 823 would have on the Workers' Compensation System.

The Workers' Compensation Act Reforms of 1993 limited the availability of stress-related claims to instances where the mental injury was caused by a physical injury or occupational disease. Those limitations were properly put into place to prevent the abusive explosion of so-called "mental-mental" claims and corresponding costs in Connecticut, as had been experienced in other states.

While SB 823 would limit the expansion of benefits to diagnosed cases of post-traumatic stress disorder in certain circumstances, the subjective nature of the diagnosis and treatment of that disorder raises potential problems. For example, in a recent press report a local psychiatrist asserted that roughly eight percent of the population is living with post-traumatic stress disorder.

IAC believes the current language would lend itself to expansive interpretation and implementation. For example, SB 823 would permit such benefits for an injury caused by “the employee witnessing the death or maiming or the immediate aftermath of such death or maiming of one or more human beings . . .”. It is not clear what is meant by the term “witnessing”, and whether the employee must be physically present at the scene and personally see the event in question. The term “maiming” is undefined, and could be given an extremely broad meaning. To our knowledge, the word “maim” is currently used only once in Connecticut statutes, in a section prohibiting the harming of animals. In addition, it is not clear what constitutes the “immediate aftermath” of the death or maiming and how that would impact benefit eligibility.

SB 823 does not specify the standards to be used to determine whether the employee has post-traumatic stress disorder. It is also not clear what categories of mental health professionals can make such a diagnosis, for purposes of eligibility for benefits under the bill.

Individuals in certain jobs face the possibility of the death or serious injury of others as a fully anticipated part of that job. SB 823 does not recognize that fact, which could lead to unwarranted claims unless the event in question is required to be extraordinary and unusual in comparison to the normal conditions of the job.

While IAC opposes the bill in its current form, if SB 823 is to go forward, we would welcome the opportunity to work with the Labor Committee on these and other issues to ensure that the legislation is properly limited and clearly defined, in order to prevent unintended consequences and counterproductive effects on the Workers’ Compensation System.